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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,112	03/24/2004	Gerardo Melendrez		4554
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KENNETH L. TOLAR 2908 Hessmer Avenue Metairie, LA 70002				
			EXAMINER NGUYEN, CAMTU TRAN	
			ART UNIT 3772	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/808,112

Applicant(s)

MELENDREZ, GERARDO

Examiner

Camtu T. Nguyen

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 27-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action is in responding to applicant's amendment filed on 8/28/2007. No claim has been amended.

Claims 27-32 are pending, with claim 27 has been amended.

Applicant's comments pertaining to the Egan et al reference, applied in the previous Office Action are acknowledged, particularly to the Egan et al reference lacking the teaching of the switch. Thus, the Egan et al rejection has been withdrawn.

The claims, as amended, have been carefully considered but deemed not allowable in view of the following rejections.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the limitation "a microprocessor means" in claim 27 is not supported in the specification, as originally disclosed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Thaler et al (U.S. Patent No. 4,711,988). Thaler et al discloses in Figure 1 a body dryer (10) comprising a housing, vents positioned on the housing, a blower (10) positioned within the housing for dispersing hot air through the vents, the blower (10) assembly including a fan with a plurality of heaters (14) in the form of heating coils (R1, R2, R3), a depressible trigger switch (20) in communication with a microprocessor (R4, R5, 18, 30, 32-34, 38). With regard to the depressible trigger switch (20) sequentially activating a select one of heaters (R1, R2, R3) each time the switch (20) is depressed, the Thaler reference teaches the switch (20) sequentially activating the heater (14) in the form of heating coils (R1, R2, R3) in the (a) normal position mode, (b) the cool shot position, and (c) the hot shot position (column 21-54).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Albanes (U.S. Patent No. 5,377,424) in view of Thaler et al (U.S. Patent No. 4,711,988). Albanes discloses in Figure 1-5 a body drying system comprising elements as recited in these claims including a housing (12) having a forwarding face (14), a rearward face (16), a pair of side faces (22), a plurality of apertures (26) positioned on the forwarding face (14) of the housing (12), a blower (46) disposed within the housing (12). The Albanes body drying system further comprising the heating element (44) but does not disclose a plurality of heaters. The Albanes further does not teach a switch for sequentially activating a plurality of heaters, as recited. Thaler et al discloses in Figure 1 a body dryer (10) comprising a plurality of heaters (14) in the form of heating coils (R1, R2, R3), a depressible trigger switch (20) in communication with a microprocessor (R4, R5, 18, 30, 32-34, 38). With regard to the depressible trigger switch (20) sequentially activating a select one of heaters (R1, R2, R3) each time the switch (20) is depressed, the Thaler reference teaches the switch (20) sequentially activating the heater (14) in the form of heating coils (R1, R2, R3) in the (a) normal position mode, (b) the cool shot position, and (c) the hot shot position (column 21-54). Therefore, one skilled in the art during the time of the invention would have been motivated to replace Albanes's single heating element (44) with Thaler's plurality of heaters in the form of heating coils (R1, R2, R3) along with Thaler's depressible trigger switch (20) in communication with a microprocessor (R4, R5, 18, 30, 32-34, 38) as such would provide a much more sophisticated and technologically advanced body system for purposes of offering efficiency and as well as comfort to the user(s).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Albanes (U.S. Patent No. 5,377,424), modified above by Thaler et al (U.S. Patent No. 4,711,988), and further in

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view of Marino (U.S. Patent No. 5,361,321). Albanes discloses in Figure 1-5 a body drying system comprising elements as recited in these claims but does not teach a gravity actuate safety switch. Marino discloses a portable electrical heater comprising a safety shutoff switch in the form of a switch (31) in the event that the heater unit tips forward. Therefore it would have been obvious to one skilled in the art to install the safety shutoff switch taught by Marino and connect it to Albanes's body dryer, modified above, as such would disabling power in the event the heating unit is overturned, thereby providing safety.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Albanes (U.S. Patent No. 5,377,424), modified above as modified above by Thaler et al (U.S. Patent No. 4,711,988) and Marino (U.S. Patent No. 5,361,321), and further in view of Aufiero (U.S. Patent No. 2,563,449). Albanes discloses in Figure 1-5 a body drying system comprising elements as recited in these claims but does not teach the housing (12) is pivotally mounted on an upright weighted support stand, as recited. Aufiero discloses in Figures 1 and 2 a heater assembly comprising walls (11, 12) of the assembly is pivotally mounted on a base portion (5) of assembly that uprightly supports the walls (11,12) on an underlying surface. Therefore it would have been obvious to one skilled in art to mount the Albanes body drying system, modified above, on Aufiero's base portion (5) for the purposes of allowing the housing to be angularly adjusted and also to provide stability.

Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albanes (U.S. Patent No. 5,377,424), modified above by Thaler et al (U.S. Patent No. 4,711,988) and Marino (U.S. Patent No. 5,361,321) and Aufiero (U.S. Patent No. 2,563,449), and further in view of Shao (U.S. Patent No 5,239,610). Albanes, as modified above, discloses in Figure 1-5 a body

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drying system comprising elements as recited in these claims but does not teach the forwarding face is convex. Shao discloses in Figures 1-9 a portable heating unit (21) having a cover (25) having a convex front section (27). Therefore it would have been obvious to one skilled in the art to modify the Albanes's front wall to be convex as taught by Shao as such curve would project hot air upwardly, downwardly, and straight ahead.

Regarding claim 31, the Albanes illustrates in the apertures (26) on the forwarding face (14) of housing (12) further including horizontal louvers (28) oriented within three rectangular oblong apertures (26). Each set of louvers (28) is pivotally mounted about parallel horizontal axes. Figure 1 further illustrates the dials to the right of each apertures (26) for pivoting the louvers (28) by rotating the dials.

Regarding claim 32, the Aufiero base portion (5) includes base portion with a pair of arms (8) extending upwardly therefrom, an adjustment knob (9) securing each of arms' distal ends to housing.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*CT Nguyen*

Camtu Nguyen  
November 8, 2007

*Patricia Bianco*

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*11/13/07*